

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In Re:

Michael Antonio Curry and  
Debra Susan Curry,  
  
Debtors.

Case No. 17-10433

Chapter 13

Honorable A. Benjamin Goldgar

**NOTICE OF MOTION**

TO: See attached Service List

On June 30, 2017, at 9:30 AM, I shall appear before Bankruptcy Judge A. Benjamin Goldgar, North Branch Court (Round Lake Beach), 1792 Nicole Lane, Round Lake Beach, IL 60073, or in his absence, before such other Bankruptcy Judge as may be presiding in his place and stead, and shall then and there present the attached Motion for Relief from Automatic Stay filed by Baxter Credit Union, at which time and place you may appear if you so see fit.

FAIQ MIHLAR (#6274089)  
HEATHER M. GIANNINO (#6299848)  
AMANDA J. DOYLE (#6320552)  
ZHIQI WU (#6324870)  
HEAVNER, BEYERS & MIHLAR, LLC  
Attorneys at Law  
P.O. Box 740  
Decatur, IL 62525  
Telephone: (217) 422-1719  
Facsimile: (217) 422-1754

STATE OF ILLINOIS  
COUNTY OF MACON

I, Amanda J. Doyle, an attorney, being first duly sworn upon oath, depose and state I have served the above and foregoing Notice, together with all required papers, upon the above-named parties, as to the Trustee and Debtors' attorney via electronic notice on June 14, 2017, and as to the Debtors by placing same in an envelope addressed as shown above, and depositing same First Class Mail, postage prepaid in the United States mailbox at Decatur, Illinois 62523 this 14th day of June, 2017.

/s/ Amanda J. Doyle

Amanda J. Doyle

**SERVICE LIST**

**Service by Mail:**

Michael Antonio Curry  
214 Chesapeake Bay  
Winthrop Harbor, Illinois 60096

Debra Susan Curry  
214 Chesapeake Bay  
Winthrop Harbor, Illinois 60096

**Service by Electronic Notice through ECF:**

Joseph S. Davidson  
900 Jorie Boulevard Suite Suite 150  
Oak Brook, IL 60523

Glenn B. Stearns  
801 Warrenville Road Suite 650  
Lisle, IL 60532

Patrick S. Layng  
United States Trustee (Region 11)  
219 S. Dearborn Street Suite 873  
Chicago, IL 60604

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**MOTION FOR RELIEF FROM AUTOMATIC STAY**

NOW COMES Baxter Credit Union, ("Movant") by and through its attorneys, Heavner, Beyers & Mihlar, LLC, and hereby moves this Court for an entry of an order for relief from the automatic stay, pursuant to 11 U.S.C. § 362, with respect to certain real property of the Debtors having an address of 214 Chesapeake Bay, Winthrop Harbor, Illinois 60096 ("Property"). The Required Statement is attached hereto as Exhibit "A", in accordance with Local Rule 4001-1. In further support of this Motion, Movant respectfully states:

1. Debtors filed a petition under Chapter 13 of the United States Bankruptcy Code on March 31, 2017.
2. The Debtors have executed and delivered or are otherwise obligated with respect to a Note in the original principal amount of \$281,000.00 ("Note"). Movant is an entity entitled to enforce the Note.
3. Movant is a secured creditor by virtue of a note secured by a Mortgage on the Property commonly known as 214 Chesapeake Bay, Winthrop Harbor, Illinois 60096.
4. Said Mortgage was recorded on August 12, 2009, in the Recorder's Office of Lake County, Illinois, as Document Number 6509707 ("Mortgage"). A copy of the Note and Mortgage are attached hereto and made a part hereof as Exhibit "B" and Exhibit "C", respectively.
5. The Debtors are the owners or occupants of said Property and said Property was included in the Debtors' Bankruptcy Petition. Said Property is the Debtors' principal residence.
6. Glenn B. Stearns is the Trustee duly appointed by law.

7. As of June 6, 2017, the outstanding amount of the Debtors' obligation under the Note is \$269,092.94.

8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested herein, Movant has also incurred attorneys' fees of \$850.00 and costs of \$181.00. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The estimated market value of the property is \$214,635.00. The basis for such valuation is the Debtors' Schedules.

10. The payoff of the additional lien on said Property is estimated to be \$41,950.00. The basis for such estimation is the Debtors' Schedules.

11. Upon information and belief, the aggregate amount of encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, is \$311,042.94.

12. Pursuant to 11 U.S.C. §362(d), cause exists to grant Movant relief from the automatic stay for the following reasons:

A. Movant's interest in the Property is not adequately protected as there is a continuing daily increase in the total amount outstanding and chargeable against said Property for interest and costs due under the Note and Mortgage.

B. Post-petition mortgage payments due on the Note secured by a Mortgage on the Property have not been made to Movant.

C. The Debtors are past due for the April 1, 2017 post-petition payment and all amounts coming due since that date. The following chart sets forth the number and amount of post-petition payments due pursuant to the Note and Mortgage that have been missed by the Debtors. A copy of the post-petition payment history is attached hereto and made a part hereof as Exhibit "D".

Number of Delinquent Payments	From	To	Monthly Payment Amount	Total Amounts Delinquent
3	4/1/17	6/1/17	\$2,186.75	\$6,560.25
Less postpetition partial payments:				\$0.00

***Total: \$6,560.25***

D. Debtors' plan indicates the Debtors intend to surrender the Property.

13. Pursuant to 11 U.S.C. §362(d)(2)(A), the Debtors have no equity in the Property; and pursuant to §362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this court enter an order terminating or modifying the automatic stay and granting the following:

1. Relief from the Stay allowing Movant, its successors and assignees, to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States Code.

3. The 14 day stay described by Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived.

4. For such other relief as the court deems proper.

Baxter Credit Union,

By: /s/ Amanda J. Doyle  
 Amanda J. Doyle  
 One of its attorneys

FAIQ MIHLAR (#6274089)  
 HEATHER M. GIANNINO (#6299848)  
 AMANDA J. DOYLE (#6320552)  
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**This advice pertains to your dealings with our firm as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must answer the motion. The advice in this notice also does affect our relations with the court. As attorneys, we may file papers in the suit according to the court's rules and the judge's instructions.**

**NOTICE PURSUANT TO THE FAIR DEBT COLLECTION**

**PRACTICES ACT**

**15 U.S.C. Section 1601 as Amended**

1. The amount of the debt is stated in the motion attached hereto.
2. The movant named in the attached motion is the creditor to whom the debt is owed or is the servicing agent for the creditor to whom the debt is owed.
3. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume the debt is valid.
4. If you notify this office in writing within 30 days after receiving this notice, this office will obtain verification of the debt and mail you a copy of such verification.
5. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.
6. Nothing in this notice should be construed as an agreement by the movant to extend or stay any time periods established by law with respect to the litigation, which is the subject of the attached motion.
7. Written requests should be addressed to Heavner, Beyers & Mihlar, LLC, 111 East Main Street, Decatur, IL 62523.
8. Please be advised that this is an attempt to collect a debt. Any information obtained will be used for that purpose.